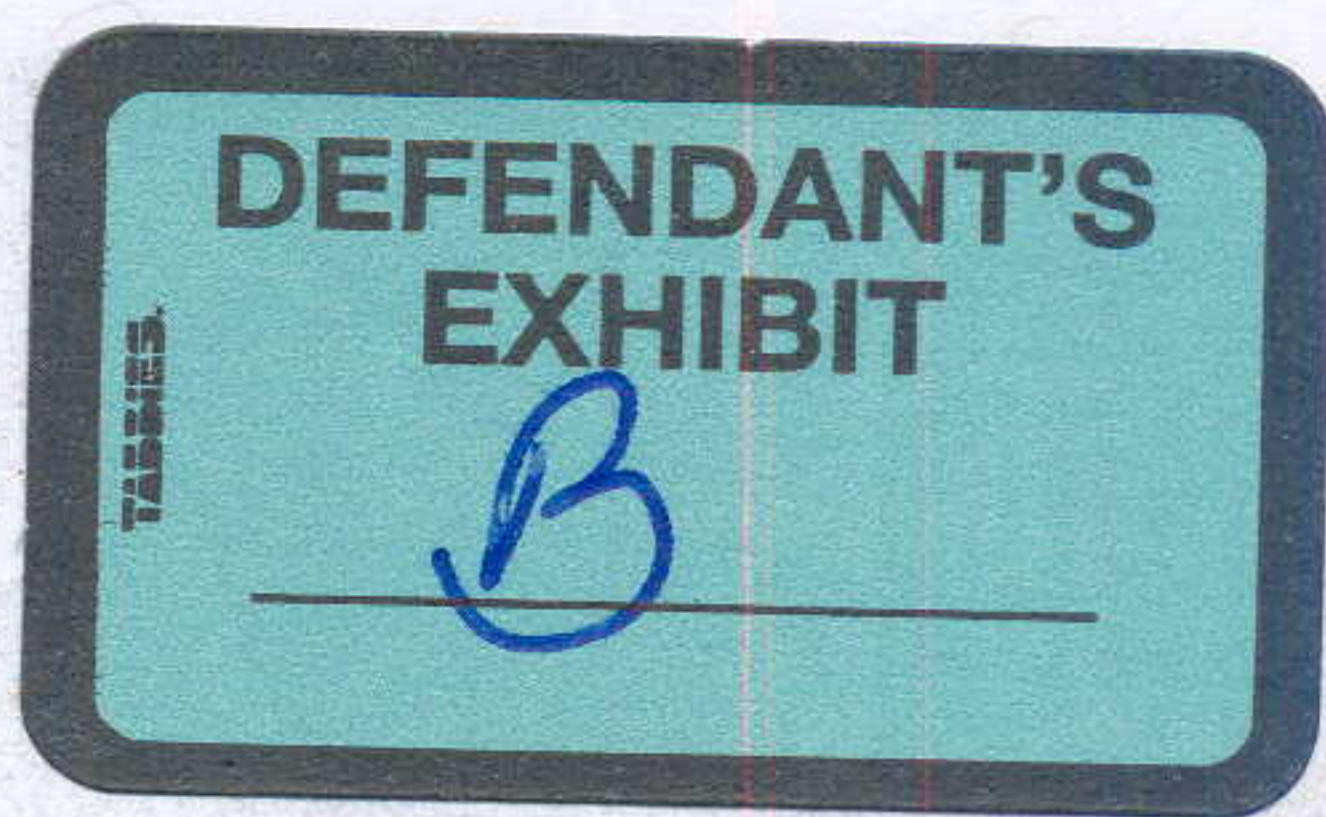




PORTLAND, MAINE



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Planning & Urban Development Department
Penny St. Louis Littell, Director

October 20, 2009

David A. Lourie, Esq.
189 Spurwink Avenue
Cape Elizabeth, ME 04107

Re: 925 Washington Avenue

Dear Attorney Lourie:

I have received your correspondence to me dated October 9, 2009 in which you ask the City to waive its site plan requirements for the development of a parking lot which occurred at 925 Washington Avenue. The owner of the property is Sadri Shir. In your letter, you assert you are representing her.

As you know, the parking lot at 925 Washington Ave was expanded and installed without necessary permits from the City. The City has since received complaints of drainage problems from abutters, who claim the creation of impervious surface not previously present on the site and a lack of adequate drainage control measures. In addition, there is the question of whether, in the course of installing the parking lot, there has been an alteration of an existing drainage course or swale which serviced the adjacent areas. Such action would also require approval by the City.

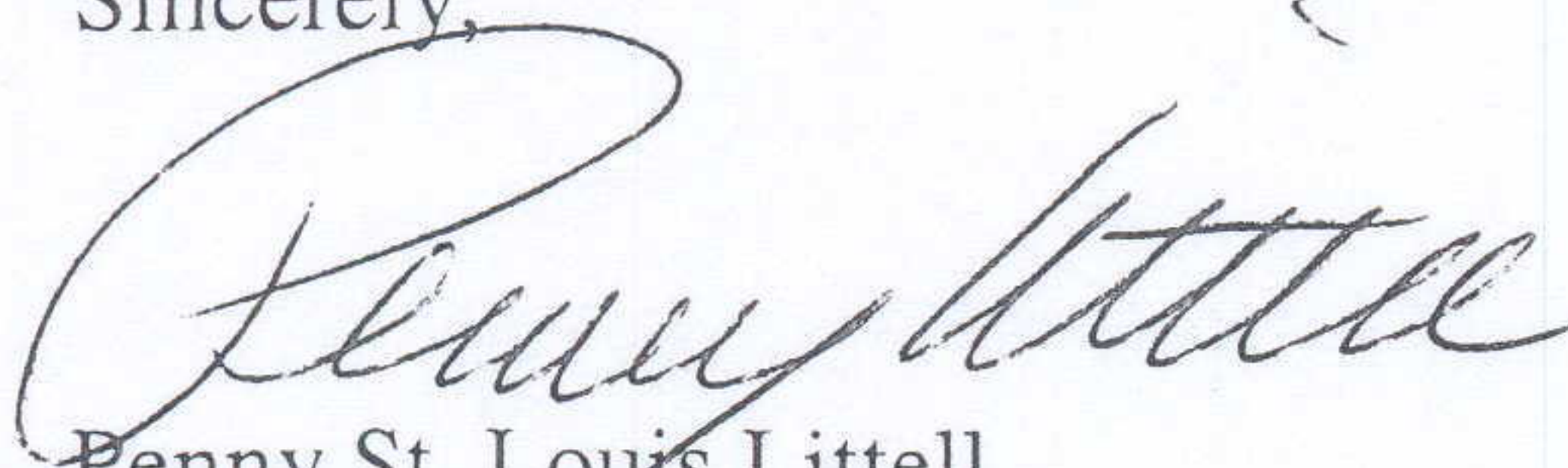
Because this work has been done in the absence of necessary permits, it is required that an After-the-Fact site plan approval be submitted for review and approval. The City has tried to work with your client by explaining what information needs to be submitted for site plan approval. Indeed, your clients submitted an incomplete site plan application and a letter was written to them explaining what additional information was necessary to deem the application complete.

While the site plan ordinance does not allow the approval of a new site plan for projects that are not lawful within the City, this property has already been altered and needs to be brought into compliance with the site plan standards of the Land Use Code. Otherwise, the City is left with the potential for unresolved drainage issues and an illegally constructed parking lot.

It is always unfortunate when property owners proceed, intentionally or unintentionally, to develop property without obtaining site plan approval. However, it is the City's responsibility to all property owners to ensure land is, at minimum, thereafter brought back into compliance with applicable legal requirements, in this instance the site plan standards. While I understand that there is an expense associated with developing a site plan for submission, I cannot comment on the reasonableness of the quotes obtained by your clients. What I can say is that the language for the Portland Land Use Code you have quoted in support of your request for a waiver, §14-525(b)(3), clearly states the planning authority or the board may waive required site plan "submissions as to exterior of the building or to the lot if there are no exterior or outside changes proposed or required." In this case, your client already made the changes and altered the site apparently without designing or engineering for drainage changes resulting from increased impervious surface. This property, therefore, does not fit within the waiver provision you quote.

It is unfortunate that you believe further delay will be inevitable if a waiver is not granted as the City has been contacted in the past for information on the site plan application process and we have tried to answer all questions and assist to the best of our abilities given the requirements in the ordinance. As the City has directly conveyed to you or Attorney Heiden more than once, we will be glad to work with your clients to restore the property to its prior condition. Should you wish to follow this course of action we will do what we can to assist in that regard. Thank you for your time and attention.

Sincerely,



Penny St. Louis Littell

Director, Planning & Urban Development Department

Cc: Gary Wood, Corporation Counsel
Barbara Barhydt, Development Review Services Manager
Alex Jaegerman, Director, Planning Division